

RD AN No. 4126 (4279-A)  
December 1, 2005

SUBJECT: Business and Industry Guaranteed Loan Program  
Sale or Reassignment of Business and Industry Guaranteed Loans

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance concerning the sale or reassignment of Business and Industry (B&I) Guaranteed Loans and acceptable methods for reassigning holders' interests in those loans.

COMPARISON WITH PREVIOUS AN:

This AN updates and replaces RD AN No. 3973 (4279-A), which expired April 30, 2005.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-A, section 4279.75, allows lenders to sell all or part of the guaranteed portion of the loan on the secondary market utilizing the multinote system or the single note system. The multinote system allows lenders to have 1 note for the unguaranteed portion and no more than 10 notes for the guaranteed portion, and Form 4279-5, "Loan Note Guarantee," is issued for each note. Holders buy one or more of the lender's executed guaranteed note(s) and the attached Loan Note Guarantee(s). The original, executed note and Loan Note Guarantee are the holder's evidence it owns that guaranteed portion.

If the loan is represented by a single note, the lender may sell all or part of the guaranteed portion of the loan, in one or more blocks (Block), using Form 4279-6, "Assignment Guarantee Agreement," to represent each Block. Under the single note option, the lender retains the original executed note and Loan Note Guarantee. A holder receives an original Assignment Guarantee Agreement with copies of the executed note and Loan Note Guarantee. These documents are the holder's evidence it owns that guaranteed

EXPIRATION DATE:  
November 30, 2006

FILING INSTRUCTIONS:  
Preceding RD Instruction 4279-A

portion of the note. In order to reassign their interest, holders must provide written notice to the lender and the Agency and may not subdivide or further split the Blocks they have received. The Agency has no contractual liability to repurchase the guaranteed portion of the loan from anyone who cannot present an original Assignment Guarantee Agreement for single note loans.

The Assignment Guarantee Agreement clearly states the percentage and corresponding amount of the guaranteed portion it represents and the lender's servicing fee. A servicing fee may be charged by the lender to a holder and is calculated as a percentage per annum of the unpaid balance of the guaranteed portion of the loan assigned by the Assignment Guarantee Agreement. Lenders should ensure that the actual amount retained as a servicing fee is not different from the amount agreed to on the Assignment Guarantee Agreement. Servicing fees are income of the lender, and as such, the Agency has no involvement with what the lender chooses to do with its income. However, it must be emphasized that the Agency is not and will not be a party to any contract between the lender and another party where the lender sells its servicing fee in an arm's length marketplace transaction. The Agency will not acknowledge, approve, or have any liability to any of the parties of this contract. When a lender receives a loan payment from the borrower, the lender remits to the holder its pro rata share (based on the percentage of holder's ownership documented on the Assignment Guarantee Agreement), less the lender's servicing fee. An example of a secondary market transaction is attached for your reference.

RD Instruction 4279-A, section 4279.75(a), states that sale of the guaranteed portion of a single note must be accomplished through use of the Assignment Guarantee Agreement. However, a new Assignment Guarantee Agreement should not be executed to effect a subsequent reassignment. The Agency position is that the Assignment Guarantee Agreement will only be used to assign to the first holder and subsequent assignments require notice to the lender and Agency using any format, including that used by the Bond Market Association (BMA), together with the transfer of the original Assignment Guarantee Agreement. The BMA developed recommended settlement procedures to effect the subsequent assignment (sale) of the guaranteed portion of a loan from a holder to another holder. These procedures are entitled "Transfer Document for USDA Government-Guaranteed Loans Sold Through the Assignment Method" (Transfer Document).

These settlement procedures call for new original Transfer Documents to be executed each time the Assignment Guarantee Agreement is sold and the original Assignment Guarantee Agreement is passed from holder to holder. The settlement procedures direct the holder or its agent to send you an original copy of the Transfer Document each time a reassignment is completed. When you receive notice, you should update the Guaranteed Loan System accordingly.

When a holder makes demand on the Agency to repurchase, RD Instruction 4279-A, section 4279.78(b)(2), directs the holder to present the original Assignment Guarantee Agreement to the Agency. You must receive the original executed document. When the BMA procedure is used, each transfer document in the chain of title should be attached to the Assignment Guarantee Agreement (the latest of which assigns the Assignment Guarantee Agreement to the Agency), along with copies of the executed note and Loan Note Guarantee.

Because regulations do not require the use of any particular transfer documents, we cannot require the holder to use the BMA documents. In the unlikely event that a holder uses other documents, the documentation must provide you with sufficient information to determine that the holder is the rightful owner of the Assignment Guarantee Agreement. If documents other than the BMA documents are used, please ensure that they contain the same information as the BMA document. The BMA settlement procedures went into effect February 1, 2001, so you may see previous versions. If it appears that a sale was not completed properly or you are not comfortable with a transaction, obtain the advice of the National Office.

If you have any questions, please contact Brenda Griffin, Loan Specialist, B&I Division, at (202) 720-6802.

*(Signed by William F. Hagy)*

PETER J. THOMAS  
Administrator  
Rural Business-Cooperative Service

Attachment

**\$5 million loan; @8%; 20 years; 80% guarantee**  
**Sold in 3 blocks (25/25/50)**

Investor A buys 2 blocks of 25 percent each of the guaranteed portion of the loan (\$1 million each).

Investor A agrees to a lender's servicing fee of .5 percent of the unpaid principal balance of the guaranteed portion of the loan assigned to Investor A.

Investor B buys 1 block of 50 percent of the guaranteed portion of the loan (\$2 million).

Investor B agrees to a lender's servicing fee of .25 percent of the unpaid principal balance of the guaranteed portion of the loan assigned to Investor B.

The first monthly payment is made and distributed as follows:

\$5,000,000	Original Loan Amount	
<b>\$41,822</b>	First Monthly Payment	(\$5,000,000 X 8.37 factor for 8%, 20 year)
<b>\$8,488.67</b>	Principal	
<b>\$33,333.33</b>	Interest	\$5,000,000 X .08 (interest rate)/12 months
<u>\$8,488.67</u>	Apply the principal payment to the Unpaid Principal Balance of the Loan	
<b>\$4,991,511.33</b>	Unpaid Principal Balance of the Loan	
\$3,993,209.06	Guaranteed Portion of the Unpaid Principal Balance of the Loan (80%)	
	(\$4,991,511.33 X .80)	
<u>\$998,302.27</u>	Non-guaranteed Portion of the Unpaid Principal Balance of the Loan (20%)	
	(4,991,511.33 X .20 or \$4,991,511.33 - \$3,993,209.06)	
\$4,991,511.33		
<b>\$41,822</b>	First Monthly Payment	
<b>\$8,364.40</b>	Portion of the payment applied to the non-guaranteed portion of the Loan, P&I)	
	(41,822 X .20)	
<b>\$33,457.60</b>	Portion of the payment applied to the guaranteed portion of the Loan, P&I)	
	(41,822 X .80 or \$41,822 - \$8,364.40)	
<b>\$8,364.40</b>	Investor A, 25 %, Block 1	(\$33,457.60 X .25)
	\$1,697.73 Principal	(\$8,488.67 Amount Applied to Principal Total Loan X .8 X .25)
	\$6,666.67 Interest	(\$33,333.33 Amount Applied to Interest Total Loan X .8 X .25)
<b>\$8,364.40</b>	Investor A, 25 %, Block 2	(\$33,457.60 X .25)
	\$1,697.73 Principal	(\$8,488.67 Amount Applied to Principal Total Loan X .8 X .25)
	\$6,666.67 Interest	(\$33,333.33 Amount Applied to Interest Total Loan X .8 X .25)
<b>\$16,728.80</b>	Investor B, Block 3, 50 %	(\$33,457.60 X .50)
	\$3,395.47 Principal	(\$8,488.67 Amount Applied to Principal Total Loan X .8 X .50)
	\$13,333.33 Interest	(\$33,333.33 Amount Applied to Interest Total Loan X .8 X .50)
\$33,457.60	Balance Test	

Investor A, Block 1, 25 %

\$1,000,000 Beginning Unpaid Principal Balance of the Guaranteed Loan Assigned

**\$1,697.73** Principal payment on this guaranteed portion of the loan. This is part of the total of \$8,364.40

\$998,302 New Unpaid Principal Balance after first payment

**\$415.96** Lender's Servicing of .5% (New Unpaid Principal Balance X .005 (servicing fee per year)/12 (months in a year)

\$8,364.40 Portion of payment attributed to Investor A, Block 1

\$415.96 Less Lender's Servicing Fee

**\$7,948.44** Amount Remitted to Investor A, Block 1

Investor A, Block 2, 25 %

\$1,000,000 Beginning Unpaid Principal Balance of the Guaranteed Loan Assigned

**\$1,697.73** Principal payment on this guaranteed portion of the loan. Part of the \$8,364.40)

\$998,302 New Unpaid Principal Balance after first payment

**\$415.96** Lender's Servicing of .5% (New Unpaid Principal Balance X .005 (servicing fee per year)/12 (months in a year)

\$8,364.40 Portion of payment attributed to Investor A, Block 2

\$415.96 Less Lender's Servicing Fee

**\$7,948.44** Amount Remitted to Investor A, Block 2

Investor B, Block 3, 50 %

\$2,000,000 Beginning Unpaid Principal Balance of the Guaranteed Loan Assigned

**\$3,395.47** This is the part of the total of \$16,728.80

\$1,996,604.53 New Unpaid Principal Balance after first payment

**\$415.96** Lender's Servicing of .25% (New Unpaid Principal Balance X .0025 (servicing fee per year)/12 (months in a year)

\$16,728.80 Portion of payment Attributed to Investor B

\$415.96 Less Lender's Servicing Fee

**\$16,312.84** Amount Remitted to Investor B

**\$41,822** Total collected for First Monthly Payment

**\$32,209.72** Total remitted to holders for guaranteed portions

**\$9,612** Total retained by lender, including servicing fees and payment on non-guaranteed portion of the loan.

\$8,364.40 Payment on the Non-guaranteed portion of the loan

\$415.96 Lender's Servicing Fee Investor A, Block 1

\$415.96 Lender's Servicing Fee Investor A, Block 1

\$415.96 Lender's Servicing Fee Investor B, Block 3

\$9,612.28 Balance Test